



ARKANSAS SENTENCING COMMISSION

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Impact Assessment for HB1496 Sponsored by Representative Hawk

Subtitle TO AMEND THE LAW CONCERNING ABUSE OF AN ATHLETIC CONTEST OFFICIAL.

Impact Summary¹ Minimal, impacting ten or fewer offenders per year.

Change from Current Law² Amends courses of conduct and penalties for § 5-13-209, Abuse of athletic contest officials. This fiscal impact will only analyze the newly created felony provisions.

Under current law, a person commits the offense of Abuse of an athletic official, a Class A misdemeanor, if he or she, with the purpose of causing physical injury to another person, the person strikes or otherwise abuses an athletic contest official immediately prior to, during, or immediately following an athletic contest in which the athletic contest official is participating.

Under the proposed bill, Abuse of an athletic contest official is a Class B felony if, *the person (1) with the purpose of causing serious physical injury to an athletic contest official, causes serious physical injury to an athletic contest official*. Abuse of an athletic contest official is a Class C felony if, *the person (2) with the purpose of causing physical injury to an athletic contest official, causes serious physical injury to an athletic contest official*. [New language is indicated by *italics*].

Impact Information Some of the newly created felony conduct in the proposed bill is potentially already criminalized under the criminal offenses of Battery in the first degree, A.C.A. § 5-13-201, a Class B felony, or Battery in the second degree, A.C.A. § 5-13-202, a Class D felony. [See attached for a complete reproduction]. The Administrative Office of the Courts reports that for three-year period beginning 1/1/2020 and ending on 12/31/2022, there was one (1) conviction for A.C.A. § 5-13-209, Abuse of Athletic Officials. Please note that not all courts report misdemeanor convictions to the Administrative Office of the Courts. For this reason, the exact impact of the proposed bill cannot be determined. However, the limited scope of new felony conduct, combined with the low number of reported convictions for the offense as currently written makes it unlikely that the proposed bill will result in a significant impact to correctional resources.

¹ This impact assessment was prepared 3/23/2023 10:43 AM by the staff of the Arkansas Sentencing Commission pursuant to A. C. A. § 16-90-802(d)(6) with data supplied by the Arkansas Department of Corrections and the Administrative Office of the Courts. A micro-simulation model may be used for bills which have the potential for significant impact on correctional resources. The following designations will be used: "minimal" = less than 10 offenders per year will be affected; "medium" = would require budgetary increases for ADC inmate costs; and "major" = would require budgetary increases for ADC inmate costs and construction costs for additional beds.

² Standard punishment ranges:

Class Y 10-40 years or life
Class A 6-30 years; up to \$15,000
Class B 5-20 years; up to \$15,000

Class C 3-10 years; up to \$10,000
Class D 0-6 years; up to \$10,000
Unclassified As specified in statute

Misdemeanors

Class A Up to 1 year; up to \$2,500
Class B Up to 90 days; up to \$1,000
Class C Up to 30 days; up to \$500

A.C.A. § 5-13-201. Battery in the first degree.

(a) A person commits battery in the first degree if:

(1) With the purpose of causing serious physical injury to another person, the person causes serious physical injury to any person by means of a deadly weapon;

(2) With the purpose of seriously and permanently disfiguring another person or of destroying, amputating, or permanently disabling a member or organ of that other person's body, the person causes such an injury to any person;

(3) The person causes serious physical injury to another person under circumstances manifesting extreme indifference to the value of human life;

(4) Acting alone or with one (1) or more other persons:

(A) The person commits or attempts to commit a felony; and

(B) In the course of and in furtherance of the felony or in immediate flight from the felony:

(i) The person or an accomplice causes serious physical injury to any person under circumstances manifesting extreme indifference to the value of human life; or

(ii) Another person who is resisting the felony or flight causes serious physical injury to any person;

(5) With the purpose of causing serious physical injury to an unborn child or to a woman who is pregnant with an unborn child, the person causes serious physical injury to the unborn child;

(6) The person knowingly causes physical injury to a pregnant woman in the commission of a felony or a Class A misdemeanor, and in so doing, causes serious physical injury to the pregnant woman's unborn child, and the unborn child is subsequently born alive;

(7) The person knowingly, without legal justification, causes serious physical injury to a person he or she knows to be sixty (60) years of age or older or twelve (12) years of age or younger;

(8) With the purpose of causing physical injury to another person, the person causes physical injury to any person by means of a firearm; or

(9) The person knowingly causes serious physical injury to any person four (4) years of age or younger under circumstances manifesting extreme indifference to the value of human life.

(b) It is an affirmative defense in any prosecution under subdivision (a)(4) of this section in which the defendant was not the only participant that the defendant:

(1) Did not commit the battery or in any way solicit, command, induce, procure, counsel, or aid the battery's commission;

(2) Was not armed with a deadly weapon;

(3) Reasonably believed that no other participant was armed with a deadly weapon; and

(4) Reasonably believed that no other participant intended to engage in conduct that could result in serious physical injury.

(c)

(1) Except as provided in subdivisions (c)(2) and (3) of this section, battery in the first degree is a Class B felony.

(2) Battery in the first degree is a Class Y felony under the circumstances described in subdivision (a)(2) or subdivision (a)(9) of this section.

(3) Battery in the first degree is a Class Y felony if the injured person is a law enforcement officer or an employee of a correctional facility, and is acting in the line of duty.

(d) As used in this section, "employee of a correctional facility" means a person who is employed by or working under a professional services contract with the Division of Correction or the Division of Community Correction.

A.C.A. § 5-13-202. Battery in the second degree.

(a) A person commits battery in the second degree if:

(1) With the purpose of causing physical injury to another person, the person causes serious physical injury to another person;

(2) With the purpose of causing physical injury to another person, the person causes physical injury to another person by means of a deadly weapon other than a firearm;

(3) The person recklessly causes serious physical injury to another person:

(A) By means of a deadly weapon;

(B) While operating or in actual physical control of a motor vehicle or motorboat if at the time:

(i) The person is intoxicated; or

(ii) The alcohol concentration in the person's breath or blood is eight-hundredths (0.08) or more based upon the definition of alcohol concentration in § 5-65-204; or

(C) Who is four (4) years of age or younger; or

(4) The person knowingly, without legal justification, causes physical injury to or incapacitates a person he or she knows to be:

(A)

(i) A law enforcement officer, firefighter, code enforcement officer, or employee of a correctional facility while the law enforcement officer, firefighter, code enforcement officer, or employee of a correctional facility is acting in the line of duty.

(ii) As used in this subdivision (a)(4)(A):

(a)

(1) "Code enforcement officer" means an individual charged with the duty of enforcing a municipal code, municipal ordinance, or municipal regulation as defined by a municipal code, municipal ordinance, or municipal regulation.

(2) "Code enforcement officer" includes a municipal animal control officer; and

(b) "Employee of a correctional facility" includes a person working under a professional services contract with the Division of Correction, the Division of Community Correction, or the Division of Youth Services;

(B) A teacher or other school employee while acting in the course of employment;

(C) An individual sixty (60) years of age or older or twelve (12) years of age or younger;

(D) An officer or employee of the state while the officer or employee of the state is acting in the performance of his or her lawful duty;

(E) While performing medical treatment or emergency medical services or while in the course of other employment relating to his or her medical training:

(i) A physician;

(ii) A person licensed as emergency medical services personnel, as defined in § 20-13-202;

(iii) A licensed or certified healthcare professional; or

(iv) Any other healthcare provider; or

(F) An individual who is incompetent, as defined in § 5-25-101.

(b)

(1) Battery in the second degree under subdivision (a)(3)(B) of this section is a Class C felony.

(2) Otherwise, battery in the second degree is a Class D felony.

(c) As used in this section, "motorboat" means the same as defined in § 5-65-102.